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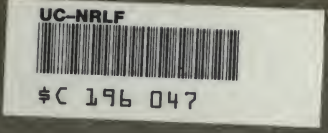

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The Massachusetts Income Tax

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The Massachusetts Income Tax

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Old Colony Trust Company
BOSTON

The information in this book is believed to be accurate, but many details of interpretation must of necessity await the regulations of the Tax Commissioner as large discretionary powers in the enforcement of the law are vested in him.

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THE MASSACHUSETTS INCOME TAX

THE new Massachusetts Income Tax law makes it possible for the first time for trustees and investors to buy taxable securities of a high grade, such as first-class railroad bonds and other sound investment securities, and at the same time to comply with the tax requirements of the commonwealth. For example, while such securities were taxed under the old property tax the average rate throughout the state was in the neighborhood of $20 on the thousand. This tax deducted from the income of a 4½% bond purchased at par left a net return of only 2½%. The purchase of such a bond therefore became out of the question for either trustees or individuals who made their tax returns. Under the new income tax such a bond will net 4.23%, while a 5% bond, bought at par, will net 4.70%. This opens up the whole field of conservative bonds to trustees and investors at reasonable and attractive rates of return. The state will at the same time benefit from the new revenue which it will receive from its share of the income.

This change is particularly important in its effect on trusts and estates, because the main objects of the creator of a trust are, first — conservative investment, and second — a reasonable return to his beneficiaries. It has been in the past exceedingly difficult for a trustee who made his returns for tax purposes, as the Old Colony Trust Company is required by law to do, to meet both these objects. Similarly, it has been exceedingly difficult for the Bond Department of the Old Colony Trust Company to furnish to its customers who made returns for tax purposes conservative securities which yield a satisfactory net income. These difficulties disappear under the operation of the new law.

At the same time such security holders as object to the drastic sworn returns required by the act will continue to invest

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in Massachusetts corporation stocks and real estate mortgages. This may be expected to maintain the present advantageous position in the market of our local securities, particularly as the income of such securities will not be subject to the new tax.

The law is both clear and obviously proper that no trustee shall make a profit out of his trust by selling securities owned by him to his trust or by buying for himself securities from his trust. The Bond Department and the Trust Department of the Old Colony Trust Company are conducted with scrupulous regard to this legal situation. The buying and selling ability of the Bond Department is nevertheless placed fully at the disposition of the Trust Department. In this way the beneficiaries of the Trust Department secure, without any profit being charged against them, the benefit of the assistance of specialists in this important phase of the investment problem.

We have included in this book an article by Professor Charles J. Bullock, Chairman of the Department of Economics of Harvard University, containing an able discussion of the more important principles and features of the act, which we are confident will be found both interesting and useful.

Letters of inquiry and personal calls relating to any of these topics are particularly invited by the officers of the company.

OLD COLONY TRUST COMPANY.

THE MASSACHUSETTS INCOME TAX

By CHARLES J. BULLOCK

The income tax enacted in 1916 marks an epoch in the history of taxation in Massachusetts. For nearly three hundred years, as colony, province, and state, Massachusetts has raised the bulk of her public revenues from the general property tax. Changes in the details of the tax laws have been made from time to time. Corporation taxes were introduced during the Civil War, and recent years have brought the tax upon inheritances. But most of our public revenues continued to be raised by a tax levied uniformly upon real and personal property by the several cities and towns at whatever rates might be needed to meet local expenses.

This method of taxing property, as everyone knows, has not worked well. Prior to the Civil War, when public expenditures were small and a tax of $4 or $5 per $1000 sufficed to meet all public charges, the system gave little reason for complaint, and taxation was not a "problem" in Massachusetts. But between 1850 and 1870 the rapid growth of cities and the heavy outlays during the Civil War led to an unprecedented increase of public expenditures, by which the rate of taxation was increased to $15 or $16 per $1000. Under the strain of these heavy tax rates, the old system of uniform taxation of real and personal property at varying local rates completely broke down. Our tax laws should have been thoroughly overhauled forty years ago; but this proved impossible, and conditions steadily went from bad to worse until at length they became absolutely intolerable.

The first evil result of the laws was their tendency to drive personal property out of the cities and towns where rates were high into a small number of favored localities where tax rates were low and the assessors extended a cordial welcome to wealthy immigrants. This at first attracted little attention; but when at length it produced conditions under which some localities were able to live luxuriously upon a $3 tax rate while others could not provide for pressing necessities with a tax rate of $20 or $25, it was seen to be an intolerable evil. In 1865, in the state at large, the revenue derived from taxes on personal property and from corporation taxes distributed to the cities and towns, amounted to $5.81 per capita; while in the fourteen wealthiest towns it amounted to $6.87 per capita, or slightly more than the average

for the entire commonwealth. But in 1915, after the process of concentration had continued for fifty years, the revenue derived from the stated sources by the average city or town amounted to no more than $7.54 per capita; while in the fourteen wealthiest towns, it had risen to $29.50 per capita. Conditions like these are almost unique in the history of taxation, and they have been a potent argument for such reform of our taxation laws as should put an end to the concentration of taxable property in a handful of wealthy towns.

A second great evil has been the creation of an artificial demand for so-called "non-taxable" investments, such as the shares of Massachusetts corporations. While the average security owner has paid little attention to our taxation laws and has exercised freedom of investment, trustees and some other investors have been unable to enjoy such freedom. Our taxation laws have compelled them to invest largely or wholly in non-taxables, with the result that as a rule they have been unable to purchase bonds, and have been obliged to invest in real estate, mortgages, and shares of Massachusetts corporations. For a long time, this was commonly regarded as a good thing, because it was thought to encourage investment in Massachusetts enterprises. But in time it came to be realized that in proportion as the market for non-taxables became artificial, investors who did not need to consider the tax laws avoided this class of investments. It also happened that this artificial demand for tax-exempt securities created an artificial supply by bringing into existence a large number of non-taxable preferred stocks. Many of these stocks have been distributed by conservative bankers after careful investigation and are well-secured and proper investments, but as was inevitable in such a situation, some of the new securities were of doubtful solidity. Of course the issue of any insecure tax-exempt stock is not to the advantage of the large number of conservative and well-managed Massachusetts corporations. One of the greatest advantages of the new income tax is that it will tend to restore normal conditions in the local investment market, and will permit an important class of investors to enjoy freedom of investment for the first time in a generation. At the same time Massachusetts securities will retain the advantage of tax exemption, and this will be the more important because the income of other securities must in the future be returned for taxation.

A final evil of the tax laws was that they were tending more and more to drive property out of Massachusetts. So long as they merely drove property from one town to another, the state at large might view the movement with comparative indifference. But when it came to actual removals of property, amounting to tens of millions, the state could not be indifferent to what was going on, and reform of the tax laws could not be longer deferred.

Since the taxation of intangible property was the worst feature of the system, it was inevitable that the first step should be to provide a better method of dealing with this class of property. In 1907 the so-called "three-mill tax" was proposed by a special commission upon taxation. This meant a flat tax at the rate of three mills upon each dollar of the assessed valuation of money, credits, and securities. Since it would have been moderate in amount, it could have been collected with tolerable certainty and without danger of driving taxpayers from Massachusetts; and since the rate would have been the same in every city and town, it would have put a stop to intra-state migration. But the plan encountered constitutional difficulties which proved insuperable, and therefore came to nothing.

In 1911 Governor Foss broached the subject of a state income tax which should be introduced as a substitute, complete or partial, for the existing tax on personal property. Since it was then evident that there was likely to be a federal income tax before very long, the plan of a state income tax was received with general favor, because it was seen that, if taxpayers were obliged to return their incomes for taxation by the federal government, there would be an obvious convenience and economy in adopting similar methods in state taxation. Differences concerning the precise form of an amendment to the state constitution permitting the establishment of a uniform income tax, delayed for several years the adoption of such an amendment. But in 1915 an income tax amendment was at last submitted to the voters, who ratified it by an overwhelming majority, and a way was thus opened for the long-deferred and greatly needed reform of the tax laws of Massachusetts.

The legislature of 1915 authorized the appointment of a special commission to investigate "the necessity and advisability of changes in existing tax laws"; and anticipating the adoption of the proposed constitutional amendment, instructed the commission to draft a law "providing for the taxation of incomes." After the

amendment was ratified at the polls, this commission took up the subject of the income tax, and in January submitted to the Legislature the draft of a well-considered law imposing: (*a*) a tax of 6% upon income derived by inhabitants of Massachusetts from such forms of intangible property as were taxable under the existing law; and (*b*) a tax of 1½% upon income derived from annuities, trades, and professions.

This measure was well received by the public, and after careful consideration by the legislative committee on taxation was finally enacted into law. Apart from perfecting amendments, the only important change made in the draft submitted by the special taxation commission was the insertion of a new provision imposing a tax of 3% upon profits derived from dealings in intangible personal property.

Upon the whole the proposed income tax law encountered surprisingly little opposition. In the House there were not enough dissenters to secure a roll call. The responsibility is now shifted from the Legislature to the taxpayers who in 1917 will come under the operation of the act.

Turning now to the new law, we find that it imposes what may be called a "partial" as distinct from a "general" income tax. It does not bring all kinds of income within its net, but confines itself to incomes derived from three sources: (*a*) intangible personal property, (*b*) annuities, trades, and professions, and (*c*) speculative dealings in intangible personal property.

It is, therefore, much narrower in scope than the federal income tax which applies to income from nearly all sources, and somewhat narrower than the Wisconsin income tax which reaches most kinds of income but does not apply to dividends from some classes of corporations. The Massachusetts law, however, follows what is undoubtedly the line of least resistance in this state. Our problem has been that of substituting an income tax for such parts of our present system of property taxation as had proved absolutely unsatisfactory. There was no popular demand for a new method of taxing real estate or tangible personal property, and the Legislature acted wisely, therefore, in making the income tax merely a logical complement to a system of property taxes upon tangible property, real and personal. The result is a perfectly logical adjustment by which tangible things like real estate, machinery, merchandise, and livestock are assessed locally upon their capital value, while intangibles are assessed by the state upon their annual income.

The Massachusetts income tax is imposed upon "inhabitants" of the commonwealth. The word "inhabitant" had long been used in our tax laws, and its precise meaning had often been considered by the Supreme Court. By retaining it, the new act probably works no change in the taxable status of persons except by abandoning the old practice of making April 1st the legal tax day, and providing that every person who is an inhabitant of the commonwealth at any time between the first day of January and the thirtieth day of June shall be liable to the income tax. Presumably the retention of the word "inhabitant" will relieve from taxation persons temporarily domiciled in Massachusetts; but it is evident also that the substitution of a six months' period for the single date of April 1st will make it difficult for actual inhabitants to evade the tax.

The most important provision of the income tax act is that which abolishes the existing tax upon intangible property and substitutes therefor a uniform tax, at the rate of six per cent, upon the income derived therefrom. Since this will be levied at the same rate in every city and town, our tax laws will hereafter offer no inducement to changes in domicile; and since the amount of the tax is reasonable, it will undoubtedly be paid cheerfully by the taxpayers. To the investing public, the law should bring a profound sense of relief in that it substitutes a definite and reasonable tax for an uncertain and unequal system, under which many escaped altogether, some compounded with the local authorities for a reasonable rate of taxation, and still others paid one-quarter or one-third of their entire incomes. While taxation can hardly be expected to be popular, it can be respected as necessary and just. The old law relating to intangible property was neither of these things, and was entitled to little respect; but the new law may be confidently expected to command both the respect and the approval of the people of Massachusetts.

The next feature of the tax on the income from intangible property is that it applies only to such kinds of intangibles as were subject to taxation under the former law. Thus the status of mortgages upon taxable Massachusetts real estate is in no wise affected, since the income of such mortgages is exempted from the income tax. Similarly, income from deposits in savings banks, income from tax-exempt state and municipal bonds, and dividends received from stock of Massachusetts corporations and national

banks are all exempt from income tax. The same is true of income from the stock of the so-called "real estate trusts," and of income from the shares of such voluntary associations as hold the shares of Massachusetts corporations or are conducting their business principally in Massachusetts and are therefore already sufficiently taxed. In general, the owner of securities will find that he is taxable only upon income derived from sources that were taxable under the old law. About the only exception to this statement is found in the case of trusts or other voluntary associations not owning real estate exclusively, or shares in Massachusetts corporations, and not doing business principally in Massachusetts. Such concerns are treated under the new law as foreign corporations, and dividends derived from their shares will hereafter be subject to taxation.

Another very important feature of the tax on intangibles is that it provides for a deduction or offset on account of indebtedness. The former law only permitted the taxpayer to offset debts against credits, — that is, it allowed the taxpayer to deduct money that he owed from money that was owed to him, — and the result was that most classes of intangible property were taxable without any offset or allowance. The new law does not indeed permit the deduction of interest paid upon any and all debts from the income received by the taxpayer from taxable intangible property. To do so would have been wrong in principle and would have opened the door to wholesale evasion. Deduction of all debts from taxable income is necessary as well as proper under a general income tax applicable to income from all sources, but under a partial income tax it is manifestly impossible. The new law, therefore, follows what may be called the principle of granting the taxpayer a proportional offset or deduction. It provides in effect that, from the income received from taxable intangible property, the taxpayer may deduct such a proportion of the interest paid on his total indebtedness as the income which he derives from taxable intangible property bears to his total income from all sources.

The provisions of the law at this point are necessarily complicated, but their practical operation may be shown by the three following cases: a person receiving $99,000 of income from taxable intangible property and $1000 of income from other sources may deduct from his taxable income derived from intangible property 99% of the interest paid upon his indebtedness;

a person receiving $50,000 of income from taxable intangibles, and $50,000 from other sources will be able to deduct one-half of the interest which he pays upon his debts; and finally, a person receiving $1000 from taxable intangible property and $99,000 from other sources will be permitted to deduct but 1% of the interest upon his obligations. These cases do not take account of all the provisions of the law and are intended merely to illustrate the principle which is eminently fair and in practice should offer no serious difficulties.

Besides allowing deduction for debts, the new law grants an exemption of $300 of income from taxable intangible property to persons whose total income from all sources does not exceed $600 during the year prior to the assessment of the tax. Under the old law a person owning any amount of taxable securities was liable to taxation, and in many cases of small estates uncovered in the Probate Courts great hardship arose. The statutes, indeed, provided that the assessors might exempt the polls and any portion of the estates of persons who by reason of age, infirmity, or poverty were deemed to be unable to contribute toward the public charities. But this did not meet the needs of the case, since a person with a capital of five or ten thousand dollars was not in a position to plead "poverty." Thus it came about that persons deriving small incomes from taxable property were frequently taxed for twenty or twenty-five per cent of such incomes. The new law not only reduces the rate of taxation to six per cent of the income from intangibles, but provides an exemption of $300.

A final feature of the act is its provision concerning the taxable situs of property held in trust. Hitherto the policy of the commonwealth has been to tax beneficiaries who reside in Massachusetts, no matter where the trustee resides or may have derived his appointment, and then to tax trustees who are inhabitants of the commonwealth, even though some or all of the beneficiaries of the trust reside in other states. In some cases a provision was made for avoiding double taxation, but in general the law proceeded upon the principle of "Heads I win, tails you lose," and reflected no credit upon the commonwealth. The new act provides that the taxes levied upon income shall be governed by the domicile of the beneficiary and not by that of the trustee. Under it persons who are inhabitants of Massachusetts and receive income from taxable property held in trust will

be taxed upon that income whether or not the trustee is a resident of the commonwealth; and, upon the other hand, if the beneficiary of the trust lives in another state, no tax will be imposed upon a trustee who happens to live in Massachusetts. This is a matter of simple justice, and it will have the effect of making it possible for inhabitants of Massachusetts to act as trustees under many trusts that otherwise would never come to this state.

Since the new law is intended to be strictly enforced, it necessarily requires compulsory returns of taxable income. On or before the first day of March in each year the inhabitants of Massachusetts must hereafter make returns of their income from taxable intangible property. Such returns must be made under oath, and failure to comply with the law will make a person liable to heavy penalties. No option is given to taxpayers, as under the former statutes of the commonwealth; and we now have an absolute requirement of full returns of taxable income, with which no careful lawyer or responsible banker will advise his client or customer to trifle. But these returns are not to be made to the local assessors. The law provides that they may be filed with the tax commissioner in Boston or with a special income tax assessor appointed to assess incomes in the district where the taxpayer lives. It is expressly provided that the taxpayer may elect whether to send the return to the tax commissioner or to the income tax assessor, so that the requirement of a sworn return does not mean that the details of a taxpayer's affairs are to become known to the people of his neighborhood. The act also provides that neither the tax commissioner nor any deputy, assistant, clerk, or other public employee shall disclose to any unauthorized person "any information whatever contained in or set forth by any such return, other than the name and address of the person filing it."

As indicated in the last paragraph, the administration of the income tax is placed in the hands of the state tax commissioner. This is one of the wisest provisions of the law because it is vitally important that the act shall be uniformly administered without fear of favor by intelligent administrators in every part of the commonwealth. To aid in this work the tax commissioner is authorized to appoint an income tax deputy who will have immediate charge of the assessment of income. He is also authorized to divide the state into income tax districts and to appoint an income tax assessor for each dis-

trict. We may expect, therefore, that there will be organized not less than a dozen or fifteen income tax districts, so that the administration of the law will be in some measure localized, although retaining the principle of responsibility to the single ultimate authority, the state tax commissioner. Under these provisions we may count on intelligent and even-handed enforcement of the law in every town or city in the state, so that when the income tax goes into operation every owner of intangible property will feel assured that all are being treated alike. Under such conditions we may expect that the law will be as fully and as cheerfully complied with as was the income tax act that went into operation in Wisconsin in 1912.

We have been so long the victims of a bad system of taxation that many persons have become skeptical about the possibility of enforcing any law requiring the taxation of personal property or income. But the success of Wisconsin in collecting a reasonable income tax has shown that the wholesale evasion that exists under a general property tax is due to the faults of the law rather than to wilful dishonesty of the citizens. An unreasonable law administered in three hundred and fifty different ways by three hundred and fifty local boards of assessors in Massachusetts could hardly be expected to produce any result but wholesale evasion. Upon the other hand, a reasonable law administered by state assessors of income under the direction of the tax commissioner will undoubtedly secure as good results in Massachusetts as it does in Wisconsin. We may reasonably expect, therefore, that the new income tax act will solve the most vexed of vexing problems, that of taxing intangible personal property.

Besides taxing the income from intangible property, the new act imposes a tax at the rate of one and one-half per cent upon income derived from annuities and from "professions, employments, trade, or business." This part of the law contains nothing new in principle, since these classes of income have long been taxable as personal property. But the new law imposes a uniform rate and makes important improvements in the details of the tax.

Under the old law income from an annuity was taxable upon its entire amount. The new law provides for an exemption of the same sort that is authorized in the case of income from intangible property. Hereafter, $300 of any annuity will be exempt from taxation provided that the total income of the annuitant from all

sources does not exceed $600. But the law stipulates that annuitants who also receive taxable income from intangible property shall not have an aggregate exemption of more than $300.

The provisions of the law concerning income from professions, employments, trade, or business are noteworthy because they carefully define what constitutes taxable income. The old law merely provided that such "income" should be taxed. There was indeed a proviso that income "derived from property subject to taxation" should not be taxed, but the Supreme Court had held that this did not prevent a merchant from being taxed upon the entire income from his business, so that everything was very much in the air. The new law carefully defines taxable income. In effect, the income hereafter subject to taxation will be the net income of the business determined substantially as any good accountant would compute it; and the further provision is made that a taxpayer shall be entitled to deduct from such net income an amount equal to five per cent of the assessed value of the stock in trade and other tangible property, real and personal, owned by him and used in the business. Thus the new act exempts so much of the taxpayer's income as represents a fair rate of interest upon the tangible property for which the business is taxed.

The new law continues the exemption of two thousand dollars of professional or business income, which had always been granted by the old. It provides a further exemption of five hundred dollars for a married person, and of two hundred and fifty dollars for each child under the age of eighteen years or for a parent dependent upon the taxpayer for support; but provides that in no case shall this total additional exemption exceed one thousand dollars. The new act, therefore, materially increases the exemptions granted to persons subject to the tax on business and professional incomes.

The provisions for administering this one and one-half per cent tax are, of course, the same as those relating to the six per cent tax upon income from intangible property. Returns must be made on or before the first of March and failure to comply with the law will entail the same heavy penalties. The tax will be assessed on partnerships as such, and the income of the members of the partnership will be exempt. If any of the partners are not inhabitants of the commonwealth, their share in the profits will not be taxable, since the law carries out consistently the

idea that the tax is a personal income tax upon inhabitants of Massachusetts.

In addition to the tax upon professional and business incomes, the new law provides for a special tax at the rate of 3% upon the excess of the gains over the losses resulting from purchases or sales of intangible personal property. This tax is due from all inhabitants of the commonwealth, whether they are engaged in the business of dealing in intangible property or not, and applies to dealings in all classes of securities, taxable and non-taxable. In other words, it applies to the individual speculator as well as to the banker or broker. Provision is made, however, that in the case of trustees the gains shall be determined not annually but at the time when a trust is terminated; provided, however, that if the trust continues for more than five years, the gains shall be determined and the tax paid at least in every fifth year. The act does not define in any detail what shall be considered gains and losses, but does state very clearly that in determining them the state shall not go back of the first day of January, 1916.

This provision of the act has aroused considerable discussion. Without it, gains from dealings in intangible property would have been taxable at the rate of 1½% if they formed part of the income of any business carried on by inhabitants of the commonwealth; but they would not have been taxable to individuals who speculated in securities. Now an income tax differs from a property tax in that it exempts from taxation property yielding no income, which, if it has any value, would be taxable under a property tax. It is obviously the intention of the new law that persons who speculate in non-dividend-yielding stocks shall be taxed upon their speculative gains, even though they may not be engaged in the business of buying or selling intangible property. That the rate was placed at 3% instead of 1½% was doubtless due in part to the desire to tax the "speculator"; but it is also explicable on the ground that intangible property is now exempt from taxation as property, so that persons who deal in it may fairly be required to pay a somewhat heavier rate than persons who deal in merchandise or other taxable tangible property.

Since the new income tax is to be strictly enforced, provision is made for what is called "information at the source." Every employer of labor must report to the tax commissioner annually the names and addresses of all regular employees who are inhabitants of Massachusetts and have received wages, salaries, or other com-

pensation in excess of $1800. It also provides that every corporation or association having transferable shares which does business in the commonwealth shall report to the tax commissioner the names of its shareholders, unless its stocks fall within the class of tax-exempt securities, and also the names of inhabitants of Massachusetts to whom it has paid annuities, or interest upon its bonds, notes or other evidences of indebtedness, except interest on coupon bonds, and income exempt from taxation under the act. Neither of these requirements is unduly burdensome, so that no such difficulties will arise as have developed under the federal income tax.

Taxpayers who in the past have been assessed for intangible property under the old law will need to pay especial attention to Section 22 of the new act. This provides that in 1917, when the income tax goes into effect, and therefore personal income and intangible property become exempt from local taxation, no person's local assessment of personal estate shall be reduced below the amount assessed in 1916, unless he makes a return of such personal property as remains subject to local taxation. This means that, in order to benefit by the exemption of income or intangible property, taxpayers must file with their local assessors in 1917 a return of their taxable tangible personalty. For the average taxpayer this will mean household furniture in excess of $1000, automobiles, horses, carriages, and livestock; and for merchants and manufacturers it will mean a return of merchandise and machinery. In this manner there will be secured in 1917 a much fuller return of tangible personal property than has ever been had before, so that the new law, by providing a just and practicable method of taxing intangibles, will remove many of the difficulties that have hitherto attended the taxation of tangible property.

The new law is calculated to yield a revenue substantially greater than is now derived from intangible property and taxable incomes, and, with the efficient methods of administration that have been provided, there can be little doubt that it will fulfill expectations. Greatly in its favor is the fact that it was adopted only after nine or ten years of constant discussion, which familiarized the people of the commonwealth with the evils of the existing system and the need of having reasonable and enforceable tax laws. It represents a general consensus of opinion after thorough and long discussion, and therefore gives assurance of relative permanency. The people of the commonwealth can, there-

fore, readjust their affairs with the reasonable expectation that a solution has been found of the most difficult of our taxation problems. This, at any rate, has been the experience of other states that have introduced just and practicable methods of taxing intangible property. Massachusetts makes the change under peculiarly favorable conditions, and there is no reasonable ground for doubt about the result.

SUMMARY OF THE INCOME TAX

I. The Following Taxes on Incomes are to be Levied in the Year 1917 and Each Year Thereafter. (Sec. 1, l. 1.)

II. Income Subject to a Tax of Six Per Cent. (Sec. 2.)

A. Income from bonds, notes, money at interest, and debts due is taxed in general; but income from property of the following classes is exempt: * (Sec. 2, l. 6.)

1. Deposits in savings banks in Massachusetts. (Sec. 2, l. 9.)
2. Deposits in savings departments of trust companies in Massachusetts which do not exceed the limits imposed on deposits in savings banks. (Sec. 2, l. 12.)
3. Deposits in the Massachusetts Hospital Life Insurance Company. (Sec. 2, l. 11.)
4. Bonds of the United States. (Sec. 2, l. 19.)
5. Bonds or certificates of indebtedness of the commonwealth issued since January 1, 1906, which state on their face that they are exempt from tax. (Sec. 2, l. 20.)
6. Bonds, notes and certificates of indebtedness of political subdivisions of the commonwealth, issued on or after May 1, 1908, which state on their face that they are exempt from tax. (Sec. 2, l. 21.)
7. Loans secured exclusively by mortgages of real estate in Massachusetts taxable as real estate to an amount, however, not exceeding the assessed value of the mortgaged real estate. (Sec. 2, l. 28.)

B. Income from shares in corporations and joint stock companies not organized under the laws of the commonwealth is taxed, except that income from property of the following classes is exempt: (Sec. 2, l. 33.)

1. Shares of national banks. (Sec. 2, l. 36.)
2. Shares of foreign railroad, street railway, electric railroad, telegraph and telephone companies doing business in the commonwealth. (Sec. 2, l. 36.)

C. Income from shares in partnerships, associations or trusts, the beneficial interest in which is represented by transferable shares, is taxed in general; but income from the following is exempt: (Sec. 2, l. 44.)

* The sections and lines printed in this summary refer to sections and lines of the Act beginning on page 31.

1. Income from shares in such partnerships, associations or trusts which file an agreement with the tax commissioner to pay the same taxes for which they would be liable if an individual, and whose property consists exclusively of one or more of the following classes. (Sec. 2, l. 48; sec. 2, l. 86.)
   (*a*) Real estate wherever situated and supplies therefor and receipts therefrom. (Sec. 2, l. 53.)
   (*b*) Stocks of corporations paying so-called franchise tax to the commonwealth. This includes all Massachusetts corporations. (Sec. 2, l. 54.)
   (*c*) Intangible property the income from which is exempt from taxation under paragraphs 4, 5, 6 and 7 of Section II (A), above. (Sec. 2, l. 59.)
   (*d*) Property the income of which would be *taxable* under II if owned by an inhabitant. (Sec. 2, l. 63.)
   (*e*) Shares in partnerships, associations or trusts, dividends on which are exempt from taxation under this Section C. (Sec. 2, l. 66.)
2. Income from shares in such partnerships, associations or trusts which file the agreement mentioned in II (C) (1) and which satisfy the tax commissioner that at least two-thirds of their taxable property is taxed within the commonwealth and the remainder, if taxable, is taxed where situated. (Sec. 2, l. 69.)

D. Distributions of capital in liquidation or otherwise are not included as income; but accumulated profits are not regarded as capital. (Sec. 2, l. 115.)

III. Deductions and Exemptions. (Sec. 3.)

A. From the income subject to the tax of six per cent, interest paid on the following debts and within the following limits is deductible: (Sec. 3, l. 1.)

1. *Persons engaged in the business of buying, selling or otherwise dealing in intangible personal property* may deduct interest on all debts except those secured by mortgage or pledge of real estate or *tangible* personal estate. (Sec. 3, l. 7.)
   (*a*) Provided that no such deduction is allowed if such business includes buying, selling, improving or other-

wise dealing in or with real estate, or buying, selling, manufacturing or otherwise dealing in or with tangible personal property. (Sec. 3, l. 11.)

2. *Other persons* (i.e., practically every one except bankers and brokers) may deduct interest on all debts except (Sec. 3, l. 17.)
   (*a*) Debts secured by mortgage or pledge of real estate or tangible personal estate, and (Sec. 3, l. 17.)
   (*b*) Debts incurred in connection with profession, employment, trade or business of such person. (Sec. 3, l. 19.)
3. The deduction under 1 and 2 from loans directly or indirectly secured by intangible personal property cannot exceed 80% of the income from such intangible property subject to the 6% tax. (Sec. 3, l. 22.)

Example: Assume the case of an individual owning $100,000 of non-dividend yielding taxable and non-taxable securities, $100,000 of tax-exempt securities yielding dividends amounting to $6,000, and $100,000 of taxable securities yielding dividends amounting to $6,000. Assume that he has no other income and that these securities are pledged to secure a loan of $150,000 upon which he is paying $7,500 interest. In this case, the individual would have to return for taxation, under Section 2, the $6,000 of dividends derived from taxable securities; then since his taxable income is $6,000 and his total income, without deducting interest, is $12,000, he is entitled to deduct 6/12 or one half of the $7,500 interest paid by him, i. e., $3,750. The rule admits of reduction to the following formula in which X stands for the amount of the deduction, viz.:

$$X : \$7{,}500 = \$6{,}000 : \$12{,}000$$

There is, however, a provision that the deduction shall not exceed 80% of the income returned by the taxpayer from taxable securities.

If such an individual received, in addition, income taxable under Section 5, such income would not be included in the calculation. If, however, he received $5,000 income from real estate, that amount would

be included in his total income, i. e., would be added to the last quantity in the above proportion.

4. Only the same proportion of interest on debts described under 1 and 2 can be deducted, as the taxable income from intangibles bears to the entire income of the taxpayer from all sources whatever, whether taxable or not, except annuities, trades, professions and businesses. (Sec. 3, l. 54.)

B. An exemption of $300 is allowed if the total income of the taxpayer from all sources is less than $600. (Sec. 4.)

IV. Income Subject to a Tax of One and One-Half Per Cent. (Sec. 5.)

A. Annuities are taxable at one and one-half per cent, but this does not include income from property held in trust even though paid in the form of an annuity. (Sec. 5, l. 5.)

1. Exemption: An exemption of $300 is allowed if the total income from all sources, including non-taxable income, is less than $600; but the total exemption from income from intangibles subject to six per cent tax, and from annuities subject to one and one-half per cent tax, cannot exceed $300. (Sec. 5, l. 12.)

B. The excess over two thousand dollars of income from professions, employments, trade or business is taxable at one and one-half per cent. (Sec. 5, l. 22.)

1. Such income is defined to include, without limiting the generality of the above words
   (*a*) The rental value of quarters furnished as part of compensation. (Sec. 5, l. 26.)
   (*b*) Gains from the sale of capital assets other than from the sale of intangible property. (Sec. 5, l. 23; sec. 6, l. 4.)
2. Exemption: The act exempts from the one and one-half per cent tax, the wages and salaries of employees and officers of the United States Government; but if the sum of their other income of a taxable nature and their wage or salary exceeds $2,000, they are taxable on the whole of such other taxable income or the excess of such sum over $2,000, whichever is less. (Sec. 5, l. 29.)

Example: A person who receives as salary from the United States Government $1,800 a year and earns $1,000 during the year in the real estate business would have taxable income of $800. If, however, his salary from the Government was $2,200 and he earned $1,000 from the real estate business, his taxable income would be only $1,000.

3. In determining the excess which is taxable at one and one-half per cent the following deductions are allowed: (Sec. 6, l. 6.)

(*a*) Expenses paid within the year, in connection with the profession, employment, trade or business, including ordinary repairs (Sec. 6, l. 8), but

Excluding — 1. Personal or family expenses. (Sec. 6, l. 10.)

2. Insurance premiums paid for use, occupancy or rent insurance. (Sec. 6, l. 11.)

(*b*) A reasonable allowance for the depreciation and obsolescence of property within the year and for the depletion of wasting assets within the year owned and used in connection with such profession, employment, trade or business. (Sec. 6, l. 15.)

(*c*) Taxes paid within the year in respect to the profession, employment, trade or business, or on property held or used in connection therewith, excluding assessments for betterments. (Sec. 6, l. 28.)

(*d*) Interest paid within the year on indebtedness incurred in connection with the profession, employment, trade or business, excluding interest allowed as a deduction for the purposes of the six per cent tax on income from intangibles. (Sec. 6, l. 35.)

(*e*) Losses incurred or sustained in connection with the profession, employment, trade or business within the year. (Sec. 6, l. 41.)

1. Upon the sale of capital assets other than intangible property. (Sec. 6, l. 41.)

2. By fire, theft, casualty or amounts paid on claims in tort or contract, provided the same are

not covered by insurance. (Sec. 6, l. 44.)

(*f*) Debts arising since December 31, 1915, in connection with the profession, employment, trade or business and actually charged off during the year, provided, (Sec. 6, l. 49.)

1. They have been included as income in a previous return under the act. (Sec. 6, l. 56.)

(*g*) An amount equal to 5% of the assessed value (in the year for which tax is being computed), of the stock in trade and other tangible property owned, and used or employed therein. (Sec. 6, l. 59.)

If such property is taxed outside the commonwealth on the basis of its income and not of its capital value, the tax commissioner may allow a deduction of 5% of the value of such property as determined by him. (Sec. 6, l. 66.)

(*h*) The following specific sums, but the aggregate deduction for husband, wife, children and dependent parents is not to exceed $1,000. (Sec. 6, l. 76.)

1. Five hundred dollars for a husband or wife with whom the taxpayer lives, but that amount may be prorated as they agree or in proportion to the net income of each in excess of $2,000. (Sec. 6, l. 76.)
2. Two hundred and fifty dollars for each child under 18 years. (Sec. 6, l. 78.)
3. Two hundred and fifty dollars for each parent entirely dependent for support upon the person making return. (Sec. 6, l. 80.)

(*i*) Interest and dividends taxable under this act at the rate of 6%, and income derived from property not subject to taxation under Chapter 490 of the Acts of 1909 and acts in amendment thereof and in addition thereto, and income from certain forest lands. (Sec. 6, l. 90.)

V. Income Subject to a Tax of Three Per Cent. (Sec. 5, l. 39.)

A. The excess of gains over losses from purchases or sales of intangible personal property whether

or not the taxpayer is a dealer in securities. (Sec. 5, l. 39.)

1. Trustees may pay the tax out of principal and are required to make a return of such gains at least every fifth year. If the trust terminates within five years, then the tax is to be paid at the termination of the trust. (Sec. 5, l. 44.)
2. Determination of value. (Sec. 7, l. 6.)
   (*a*) If the property was owned January 1, 1916, the value on that date is the basis. (Sec. 7, l. 8.)
   (*b*) If purchased subsequently, then the value on the date of acquisition is the basis. (Sec. 7, l. 11.)

NOTE: The tax commissioner is authorized to make rules and regulations not inconsistent with the act for the purpose of effecting its provisions, and he will doubtless define the words "gains" and "losses" for the purpose of computing the excess which is taxable at the rate of 3%.

VI. ADDITIONAL PROVISION AS TO ESTATES, FIDUCIARIES AND PARTNERSHIPS. (Secs. 8, 9, and 10.)

A. Estates of Deceased Persons. (Sec. 8.)

1. Income received by persons since deceased is taxed to the estate of such persons. (Sec. 8, l. 1.)
2. Income received by the estate of a deceased inhabitant is assessed to the executor or administrator, to the extent that the beneficiaries are residents of Massachusetts. (Sec. 8, l. 3.)
3. No person is taxable for income received from an estate which has been taxed on such income. (Sec. 8, l. 15.)
4. Taxes must be assessed within one year from the appointment of the executor or administrator or within three months from the time of filing the inventory, if the inventory has not been filed at the end of nine months. (Sec. 8, l. 19.)

B. Trustees. (Sec. 9.)

1. Except as follows, trustees are taxed under the same provisions as executors and administrators. (Sec. 8, l. 34.)
2. If any trustee lives in Massachusetts, or is appointed by a court in this commonwealth, the income received by such trustee is subject to tax to the extent

that the beneficiaries to whom it is paid or for whom it is accumulated are inhabitants of Massachusetts. No tax is assessed as to the balance of the income. (Sec. 9, l. 1; sec. 9, l. 12.)

Example: A trustee in Massachusetts receives during the year $1,000 in dividends from foreign corporations and $1,000 in interest on tax-exempt municipal bonds. By the terms of the trust the income is divided equally between two beneficiaries, one a resident and one a non-resident. The trustee would be subject to a tax of 6% on $500.

3. If all the trustees are non-residents, the income received by the beneficiaries who *are* inhabitants is taxable according to the nature of the income received by the non-resident trustees. (Sec. 9, l. 17.)

Example: If the trustee in the example under 2 lived outside of Massachusetts, the Massachusetts beneficiary would be required to include in his return as taxable income the sum of $500.

4. No person is taxable for income received from a trustee who has been taxed on such income. (Sec. 8, l. 34; sec. 8, l. 15.)
5. Provision is made for the fiduciary to claim the benefit of the $300 exemption. (Sec. 9, l. 26.)
6. These same principles apply so far as applicable to guardians, conservators, trustees in bankruptcy, receivers and assignees for creditors, as are applicable to trustees. (Sec. 9, l. 70.)
7. Income accumulating for unborn or unascertained interests is taxed as if for a resident. (Sec. 9, l. 75.)
8. In order to facilitate settlement of estates, the tax commissioner with the approval of the attorney general may agree upon the amount of taxes due or to become due and payment of such amount is full satisfaction of the taxes referred to in such agreement. (Sec. 9, l. 80.)

C. Partnerships (not including partnerships, associations or trusts, the beneficial interest in which is represented by transferable shares). (Sec. 10.)

1. Partnerships of which any member is an inhabitant of Massachusetts and which have a usual place of business in Massachusetts are assessed on their profits or income in proportion to the interest of

the partners who are inhabitants of Massachusetts. (Sec. 10, l. 1.)

2. The individual partners are not assessable for income from such partnership. (Sec. 10, l. 14.)
3. At the request of any partner, the partnership may claim the benefit of the $300 exemption to which such partner may be entitled. (Sec. 10, l. 17.)
4. A Massachusetts inhabitant who is a member of a partnership not doing business in Massachusetts is taxable on income received therefrom as he would be if the income were received directly by him instead of through the partnership. (Sec. 10, l. 39.)
5. The provisions of the act as to returns, assessment, abatement and collection of taxes apply to partnerships subject to tax. (Sec. 10, l. 47.)

D. Partnerships, associations and trusts, the beneficial interests in which are represented by transferable shares are

1. Liable for all taxes imposed by the act as if an individual, if dividends on such transferable shares are exempt from tax hereunder. (Sec. 2, l. 77; sec. 5, l. 66.)

VII. Exemption from Local Taxation. (Sec. 11.)

After 1916, income taxable under this act at the rate of 1½% or 3% and property the income of which is taxable under this act and has been returned, are exempt from other taxation.

VIII. Returns are Required under Oath as Follows. (Sec. 12.)

A. Such returns are due annually on or before March 1st, beginning 1917, covering income for calendar year ending the preceding December 31st. (Sec. 12, l. 46.)

B. Such returns are required from (Sec. 12, l. 1.)

1. Every individual inhabitant, including partnerships, associations and trusts, whose annual income exceeds two thousand dollars, except that he need not return income from (Sec. 12, l. 1.)
   (*a*) Real estate. (Sec. 12, l. 6.)
   (*b*) Dividends exempt under this act. (Sec. 12, l. 7.)
   (*c*) Interest on bonds of the United States. (Sec. 12, l. 8.)

(*d*) Interest upon bonds, notes or certificates of indebtedness of the commonwealth and its political subdivisions, which is exempt under the act. (Sec. 12, l. 10.)

(*e*) Interest on loans secured by mortgage of real estate within the commonwealth not exceeding the assessed value. (Sec. 12, l. 18.)

(*f*) Wages or salaries received from the United States. (Sec. 12, l. 22.)

2. Every other individual inhabitant who receives *any* income subject to the 6% tax, or from an annuity (except from a trust) or any gains in excess of losses as defined by the tax commissioner, on dealings in intangible property, must make a return of such income. (Sec. 12, l. 23.)

3. Every fiduciary, person, trustee in bankruptcy, assignee for creditors and certain receivers, who receives taxable income must file like returns of taxable income. (Sec. 12, l. 29.)

4. Every person who is or who becomes an inhabitant of Massachusetts at any time between January 1st and June 30th, in any year, and who received taxable income in the preceding year. (Sec. 12, l. 51.)

C. Filing. (Sec. 12, l. 37.)

1. Such returns may be filed with the income tax assessor for the district where the taxpayer resides or has his principal place of business, or at option of taxpayer, with the tax commissioner.

D. Forms and blanks. (Sec. 12, l. 72.)

1. The tax commissioner is required to provide blanks, but failure to receive one does not excuse the making of a return. (Sec. 12, l. 72.)

E. Special returns under oath may be required of all income, whether taxable or not, if the tax commissioner is of the opinion that any person has not filed a return when required to do so, or intentionally or through error has omitted taxable income from a return which has been filed. Such special return does not relieve the taxpayer from the penalties imposed. (Sec. 12, l. 87.)

IX. Penalties. (Sec. 13.)

Severe penalties as follows are provided for failure to file returns when required:

1. Fine or imprisonment, or both. (Sec. 13, l. 1; sec. 13, l. 33.)
2. Disqualification for public office. (Sec. 13, l. 44.)
3. The tax commissioner is to assess a tax on twice the amount of income he can discover. (Sec. 14, l. 27.)
4. Abatements are limited to an amount equal to twice the amount of the tax. (Sec. 19, l. 21.)
5. A writ of mandamus may issue compelling a person to file a return. (Sec. 13, l. 11.)

X. Assessment, Collection, Abatement and Distribution of Taxes. (Secs. 14–19.)

A. The tax commissioner or his deputy have charge of all the administrative features of the act. (Sec. 14.)

B. The tax commissioner may proceed under the authority given to discover income and collect taxes thereon within two years from the time when the return was due. (Sec. 14, l. 13; sec. 14, l. 27).

C. The tax commissioner may allow extensions of time for filing returns in case of sickness, absence or other disability. (Sec. 14, l. 36.)

D. Taxes are due on October 15th of each year and may be paid to the tax commissioner or to the income tax assessor for the district in which the taxpayer lives. (Sec. 15, l. 6.)

E. Returns are to be open only to the tax commissioner and the income tax assessors and their deputies, assistants and clerks when acting under their authority. (Sec. 16.)

1. Penalty for disclosure is a fine not exceeding $1,000 or imprisonment not exceeding six months, or both, and disqualification for public office for not over three years. (Sec. 16, l. 6.)
2. Indexes of persons filing returns are to be open to the public at the office of each income tax assessor. (Sec. 16, l. 24.)

F. The act provides for income tax assessors who are to have charge of the income tax districts into which the state is to be divided. Such assessors are appointed by the tax commissioner with the advice and consent of the governor and council. (Sec. 17.)

G. Abatements. (Sec. 19.)

1. Tax may be abated or refunded by the tax commissioner upon an application filed within three months from the date of notice of assessment. (Sec. 19, l. 1.)
2. No abatement below double the amount

of the tax is allowed if the return is not filed on time; or if a fraudulent, incorrect or insufficient return has been filed and is not corrected after notice to do so. (Sec. 19, l. 15.)

3. Appeal may be taken from the decision of the commissioner to the board of appeal or a complaint entered against the tax commissioner in the Superior Court. (Sec. 20.)

H. Additional local taxes. (Sec. 21.)

1. Unless a return is filed with the income tax assessor or the tax commissioner, taxes at the local rate are to be assessed on property, the income of which would be taxable under this act, if such a tax is greater than the income tax would be, unless the taxpayer establishes: (Sec. 21, l. 1.)
   (*a*) That the income was properly returned, or (Sec. 21, l. 39.)
   (*b*) That it was not taxable, or (Sec. 21, l. 41.)
   (*c*) That there was reasonable excuse for not making a return. (Sec. 21, l. 41.)
2. Unless a return is filed in 1917 with the local assessor of *taxable tangible personal property*, the taxpayer is to be assessed at the local rate on an amount of personal property not less than that on which he was assessed in 1916. (Sec. 22.)

I. Distribution of the tax. (Sec. 23.)

1. The commonwealth is to pay each city and town in 1917 an amount equal to the difference between the amount obtained by applying the 1915 local rate to the 1917 assessment on *tangible* personal property, and the amount of local taxes on tangible and intangible personal property in 1915. Any balance is distributed in the same proportions as the state tax is assessed. After 1917 taxes are to be distributed as Legislature determines.

XI. Information at the Source. (Sec. 25.)

A. Every employer doing business in or being an inhabitant of the commonwealth is required to file annually on or before March 1st, the names and addresses of every employee to whom have been paid wages, salary or compensation in excess of $1,800 during the preceding year, and

the amount paid to each such employee. (Sec. 25, l. 1.)

B. Every corporation and every partnership, association or trust, the beneficial interest in which is represented by transferable shares, doing business in Massachusetts is required to file with the tax commissioner on or before March 1st of each year. (Sec. 25, l. 14.)

1. The names and addresses of all shareholders as of record December 31st, or at its option, of those in Massachusetts, unless the income on its shares is exempt under the act. (Sec. 25, l. 14.)
   (*a*) The tax commissioner may accept a list as of any other date. (Sec. 25, l. 27.)
2. The names and addresses of residents to whom it has paid annuities, or interest upon its bonds, notes or other evidences of indebtedness, except on bearer coupons and except income exempt from taxation under this act. (Sec. 25, l. 33.)

C. Penalties for failure to file such returns. (Sec. 25, l. 58.)

1. A fine of not less than $25 nor more than $500 is provided for each failure to file the required return. (Sec. 25, l. 58.)

D. The treasurers of every city, town and county, and the auditor of the commonwealth is to file not later than April 10th of each year the names and addresses of all employees receiving more than $1,800 a year, and the amounts received by each. (Sec. 26.)

THE MASSACHUSETTS INCOME TAX LAW

An Act to impose a Tax upon the Income received from Certain Forms of Intangible Property and from Trades and Professions.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. There shall be levied in the year nineteen hundred and seventeen, and in each year thereafter, a tax upon incomes as hereinafter set forth.

TAXATION OF INCOME DERIVED FROM CERTAIN INTANGIBLES

SECTION 2. Income of the following classes received by any inhabitant of this commonwealth during the calendar year prior to the assessment of the tax shall be taxed at the rate of six per cent per annum:

(*a*) Interest from bonds, notes, money at interest and all debts due the person to be taxed, except from:

First: Deposits in any savings bank chartered by this commonwealth or in the Massachusetts Hospital Life Insurance Company, or such of the deposits in the savings department of any trust company so chartered as do not exceed in amount the limits imposed upon deposits in savings banks by section forty-six of chapter five hundred and ninety of the acts of the year nineteen hundred and eight, and acts in amendment thereof and in addition thereto.

Second: Bonds of the United States and such bonds, notes and certificates of indebtedness of the commonwealth and of political subdivisions thereof as are exempt from taxation under the provisions of clause fifteen of section five of Part I of chapter four hundred and ninety of the acts of the year nineteen hundred and nine, and acts in amendment thereof and in addition thereto.

Third: Loans secured exclusively by mortgages of real estate, taxable as real estate, situated within the commonwealth, to an amount not exceeding the assessed value of the mortgaged real estate.

(*b*) Dividends on shares in all corporations

and joint stock companies organized under the laws of any state or nation other than this commonwealth, except national banks and except such foreign corporations as are subject to a tax upon their franchises payable to this commonwealth under the provisions of sections forty-three and fifty-two of Part III of chapter four hundred and ninety of the acts of the year nineteen hundred and nine, and acts in amendment thereof and in addition thereto.

(*c*) Dividends on shares in partnerships, associations or trusts, the beneficial interest in which is represented by transferable shares, except dividends on shares of the following:

First: Partnerships, associations or trusts, which file with the tax commissioner the agreement hereinafter provided for, and the property of which consists exclusively of one or more of the following specified kinds of property, to wit: real estate wherever situated and supplies therefor and receipts therefrom; stocks of corporations taxable under the provisions of sections forty-three and fifty-two of Part III of chapter four hundred and ninety of the acts of the year nineteen hundred and nine and acts in amendment thereof and in addition thereto; bonds, notes, loans secured by mortgage of real estate, and certificates of indebtedness, the income of which is exempt from taxation under the provisions of this section; property the income of which, if any, would be taxable under this section if owned by an inhabitant of the commonwealth; shares in partnerships, associations or trusts, dividends on which are exempt from taxation under this section.

Second: Partnerships, associations or trusts, the beneficial interest in which is represented by transferable shares, which file such agreement and furnish satisfactory proof to the tax commissioner that two thirds, at least, of their taxable property is taxed within the commonwealth and that the remainder, if taxable, is taxed where it is situated.

Partnerships, associations or trusts, the dividends on shares of which are exempt from taxation under this section, shall pay to the tax commissioner annually a tax of six per cent of the income derived from any property owned by such partnerships, associations or trusts, so far as such income would be taxable under this section if received by an inhabitant of the commonwealth.

Dividends on the shares of any partnership, association or trust, of the classes designated in paragraphs first and second of subsection (*c*) of

this section shall be subject to taxation under this section unless the trustees or managers of such partnership, association or trust shall file with the tax commissioner, in such form as he shall determine, its agreement to pay to the commonwealth annually the tax imposed by the preceding paragraph and any tax imposed by section five of this act. In case of any breach of the terms of any such agreement, the same may be enforced by information in equity to be brought by the attorney-general at the relation of the tax commissioner in the supreme judicial court for the county of Suffolk. This remedy shall be in addition to all other means of collection provided by this act, and to the penalties hereinafter imposed.

For the purposes of this act any securities of the classes designated in this section, held in pledge, or on margin or otherwise, by an agent or broker as security for a debt of his principal, whether such securities stand in the name of the principal or of any other person, shall be deemed to be the property of the principal, and the income arising therefrom shall be included in the total income of the principal under this section.

No distribution of capital, whether in liquidation or otherwise, shall be taxable as income under this section; but accumulated profits shall not be regarded as capital under this provision.

DEDUCTIONS ALLOWED

SECTION 3. From the income taxable under section two of this act the taxpayer may, under the conditions prescribed in this section and in section seven, receive a deduction on account of interest paid by him during the year on debts of the following classes:

(*a*) Debts, except those secured by mortgage or pledge of real estate or tangible personal property, owed by persons engaged in the business of buying, selling, or otherwise dealing in intangible personal property, provided that such business, if it includes other classes of dealings, does not include buying, selling, improving or otherwise dealing in or with real estate or buying, selling, manufacturing or otherwise dealing in or with tangible personal property.

(*b*) Debts owed by other persons, except debts secured by such mortgage or pledge and debts on account of which the taxpayer is entitled to claim a deduction under sections five and six.

In determining as hereinafter provided the

deduction authorized in the preceding paragraph, no deduction shall be allowed in respect of interest upon any debt belonging to either class (*a*) or class (*b*) above enumerated which arises from loans or open accounts directly or indirectly secured by intangible personal property, except to an amount not exceeding eighty per cent of the income returned by the taxpayer for taxation under section two on account of intangible personal property which secured such loans or open accounts.

The said deduction shall be determined in the following manner:

A taxpayer who claims the benefit of the said deduction shall file with the tax commissioner or the income tax assessor of his district a return, in such form as the tax commissioner shall from time to time prescribe, of his entire income from all sources, together with such other information as the tax commissioner may deem necessary for the determination of the amount of said deduction. The tax commissioner may, in lieu of such return, accept a sworn duplicate of the annual return of income made under the provisions of the act of congress of the United States, approved October third, nineteen hundred and thirteen, and acts in amendment thereof and in addition thereto; he may also, in any case where he shall deem it necessary, require the taxpayer to file such a sworn duplicate.

From the said return and information the tax commissioner or the income tax assessor shall determine the amount of interest paid during the year by the taxpayer on debts of classes (*a*) or (*b*) above enumerated, for which deduction is authorized by this section, which interest for the purpose of this section shall be called the net interest. He shall also determine the total net income of the taxpayer, exclusive of income taxable under section five, as such total net income would be if no deduction were made for interest paid during the year. The taxpayer may deduct from his income taxable under section two an amount of interest paid by him during the year which shall bear the same proportion to the net interest paid as his income taxable under section two bears to his total net income as above determined.

A partnership, association or trust, the beneficial interest in which is represented by transferable shares, paying to the commonwealth a tax upon income subject to taxation under section two of this act, as provided in said section, may receive the deduction authorized by this

section on the same terms as an individual inhabitant.

Any person filing a fraudulent return or giving fraudulent information to the tax commissioner or the income tax assessor under this section, shall be subject to the penalties set forth in section thirteen of this act in the case of fraudulent returns.

EXEMPTION

SECTION 4. A person whose total income from all sources does not exceed six hundred dollars during the year preceding that in which the tax is assessed shall have an exemption of three hundred dollars of that part of his income which is liable to taxation under section two of this act.

INCOME FROM ANNUITIES, PROFESSIONS, EMPLOYMENTS, TRADE AND BUSINESS

SECTION 5. Income of the following classes received by any inhabitant of this commonwealth, during the calendar year prior to the assessment of the tax, shall be taxed as follows:

(*a*) Income from an annuity shall be taxed at the rate of one and one half per cent per annum. The income of property held in trust shall not be exempted from taxation under section two nor shall payments to beneficiaries be taxed under this section, because of the fact that the whole or any part of the payments to the beneficiaries is in the form of an annuity. A person whose total income from all sources does not exceed six hundred dollars during the year preceding that in which the tax is assessed shall have an exemption of three hundred dollars of that part of his income which is liable to taxation under this paragraph; *provided, however,* that no person shall have exemptions under this paragraph and under section four exceeding in all three hundred dollars of income.

(*b*) The excess over two thousand dollars of the income, as defined in section six, derived from professions, employments, trade or business shall be taxed at the rate of one and one half per cent per annum. In determining such income the rental value of living quarters furnished any individual as part of his compensation shall be included. The wages and salaries of employees and officers of the United States government shall not be taxed; but if such employees and officers receive other income taxable under this section, that part of such other

income shall be taxed which, when such other income is added to the amount of the wages or salary received as an employee or officer of the United States government, shall be in excess of two thousand dollars.

(*c*) The excess of the gains over the losses received by the taxpayer from purchases or sales of intangible personal property, whether or not the said taxpayer is engaged in the business of dealing in such property, shall be taxed at the rate of three per cent per annum; *provided*, that in the case of intangible personal property held by trustees or other fiduciaries, the said excess shall be determined and the tax imposed by this section shall be assessed by the tax commissioner or income tax assessor and the tax shall be paid, at the time when such trust is terminated, but such trustee or other fiduciary may at his option include the said excess in any return of income made prior to the termination of the trust, and the tax shall be assessed and paid as of the year in which the return is made. In the case of trusts that continue for more than five years, the said excess, if not previously returned, shall be included in a return of taxable income at least in every fifth year, and the tax shall be assessed and paid as of the year in which the return is made. Any such trustee or other fiduciary may charge any taxes paid under this paragraph against principal in any accounting which he makes as such trustee.

Income of the classes enumerated in paragraphs (*a*), (*b*) and (*c*) of this section received by any partnership, association or trust, the beneficial interests in which are represented by transferable shares, shall be taxed under this section to the same extent as if the partnership, association or trust were an individual inhabitant of this commonwealth, unless the dividends on the transferable shares issued by such partnership, association or trust are taxable under the provisions of section two.

Interest and dividends taxable under section two of this act shall not be taxed under this section; and income derived from property not subject to taxation under chapter four hundred and ninety of the acts of the year nineteen hundred and nine and acts in amendment thereof and in addition thereto, and also income derived from forest lands classified under chapter five hundred and ninety-eight of the acts of the year nineteen hundred and fourteen, shall not be taxed under this act.

DETERMINATION OF TAXABLE INCOME FROM PROFESSION, EMPLOYMENT, TRADE OR BUSINESS

SECTION 6. Income taxable under paragraph (*b*) of section five of this act shall be the gross income from the profession, employment, trade or business, including gains from the sale of capital assets, other than intangible personal property, employed therein, less the following deductions:

(*a*) Expenses paid within the year in the profession, employment, trade or business, including the cost of ordinary repairs but not including personal or family expenses; *provided*, that premiums paid for use and occupancy insurance, or rent insurance, shall not be deducted as part of such expenses.

(*b*) A reasonable allowance for the depreciation and obsolescence of property within the year, and for the depletion within the year of wasting assets owned by the person taxed and used in the profession, employment, trade or business; *provided*, that with the approval of the tax commissioner a taxpayer may, in lieu of the aforesaid allowance for depreciation and obsolescence, be allowed to deduct actual expenses of replacement of capital and extraordinary repairs, and with such approval may in any year defer such deductions in whole or in part to one or more subsequent years.

(*c*) All taxes paid within the year to the United States or any other nation, or to any state, county, city, town or district, in respect of the profession, employment, trade or business, or the property held or used in connection therewith, but not including assessments for betterments.

(*d*) Interest paid within the year on indebtedness of the person taxed incurred in connection with his profession, employment, trade or business; but no interest allowed as a deduction under section three of this act shall also be allowed under this section.

(*e*) Losses from the sale within the year of capital assets other than intangible personal property and losses sustained within the year by fire, theft or other casualty, or amounts paid within the year on account of claims in tort or contract incurred in connection with the profession, employment, trade or business, when not compensated for by insurance or otherwise.

(*f*) The amount of any debts receivable arising from the conduct of a profession, employment, trade or business subsequent to December thirty-first, nineteen hundred and

fifteen, determined by the person taxed to be worthless and actually charged off during the year; but no debts receivable as income shall be so charged off and deducted, unless they have previously been included as income in a return made under this act.

(*g*) An amount equal to five per cent of the assessed value of the stock in trade and other tangible property, real and personal, owned by the person taxed and used or employed in the profession, employment, trade or business within or without the commonwealth, on the day as of which such property is assessed in the year for which the income is computed. In case any such stock in trade or other tangible property located without the commonwealth is taxed in respect of its income, and not in respect of its capital value, by the taxing district in which it is located in such year, the tax commissioner may determine its value in any other manner, and may allow a deduction of an amount equal to five per cent of the value so determined.

(*h*) The sum of five hundred dollars for a husband or wife with whom the taxpayer lives, and the sum of two hundred and fifty dollars for each child under the age of eighteen years, or parent entirely dependent for support upon the person making the return. The aforesaid deduction shall not be made by both husband and wife, but may be made by either as they shall mutually agree, or shall be prorated between them in proportion to the net income of each in excess of two thousand dollars. In no case shall the total deduction on account of husband and wife, and children and parents, exceed one thousand dollars.

(*i*) Income of the classes specified in the last paragraph of section five.

METHODS OF DETERMINING TAXABLE INCOME

Section 7. Persons who customarily estimate their income and expenditure on a basis other than that of actual cash receipts and disbursements may, with the approval of the tax commissioner, compute upon a similar basis their income taxable under this act. In determining the gains or losses realized from the sale of capital assets, the value on January first, nineteen hundred and sixteen, of such property owned on that date shall be the basis of determination, and in case property is acquired after January first, nineteen hundred and sixteen, the value on the date that it is acquired shall be the basis of determination.

ESTATES OF DECEASED PERSONS

SECTION 8. The income received by persons since deceased shall be taxed to their estates. The income received by estates of deceased persons who last dwelt in this commonwealth shall be subject to the taxes assessed by this act, to the extent that the persons to whom such income is payable or for whose benefit it is accumulated are inhabitants of this commonwealth, which shall be assessed to the executor or administrator, and before the appointment of an executor or an administrator such taxes shall be assessed in general terms to the estate of the deceased, and the executor or administrator subsequently appointed shall be liable for the tax so assessed as though assessed to him: *provided*, that no person shall be taxed under the provisions of this act for income received from any executor or administrator which income has itself been taxed under the provisions of this section; and *provided*, that an executor or administrator who has given due notice of his appointment, and who has filed an inventory within nine months thereafter, shall not be obliged to pay any tax hereunder except upon income received by him or income of his decedent with respect to which he is required to make a return hereunder, unless the same shall be assessed within one year after his giving bond for the performance of his trust. If the inventory shall not have been filed within the said nine months, the executor or administrator shall be obliged to pay any taxes that may be assessed hereunder within three months after the filing of the inventory.

The provisions of this act with reference to the taxation of income received by trustees shall, so far as apt, and except as otherwise provided herein, apply to the income received by executors and administrators.

PROPERTY HELD IN TRUST

SECTION 9. The income received by estates held in trust by trustees, any one of whom is an inhabitant of this commonwealth or has derived his appointment from a court of this commonwealth, shall be subject to the taxes assessed by this act to the extent that the persons to whom the income from the trust is payable, or for whose benefit it is accumulated, are inhabitants of this commonwealth. The tax shall be assessed to such of the trustees as are inhabitants of the commonwealth.

Such part of the income of intangible personal property held in trust as is payable to or accumulated for persons who are not inhabitants of the commonwealth, shall be exempt from the taxes imposed by this act.

If an inhabitant of this commonwealth receives income from one or more executors, administrators or trustees, none of whom is an inhabitant of this commonwealth or has derived his appointment from a court of this commonwealth, such income shall be subject to the taxes assessed by this act, according to the nature of the income received by the executors, administrators or trustees.

An executor, administrator, or trustee may, at the request of any beneficiary, claim the benefit of the exemptions provided by sections four and five of this act for each person to whom the income from the trust is payable, or for whose benefit it is accumulated, and an inhabitant of this commonwealth receiving income from one or more executors, administrators or trustees, none of whom is an inhabitant of this commonwealth, or has derived his appointment from a court of this commonwealth, may also claim the benefit of such exemptions; *provided, however*, that no such exemptions shall be allowed unless the tax commissioner is satisfied by an affidavit from the beneficiary who claims exemptions, or for whose benefit the same are claimed, or otherwise, that such beneficiary is not allowed in all trusts or estates under which he may be a beneficiary, and on account of all income on which he is liable to taxation under this act, more than the total amount of exemptions to which he is entitled under said sections four and five respectively.

Corporations authorized under the laws of this commonwealth to act as trustee or in any other fiduciary capacity shall, with respect to the income received by them in that capacity, be subject to the provisions of this act in the same manner and under the same conditions as individual inhabitants of this commonwealth acting in similar capacities, except that no such corporation shall be taxed on account of any property the income of which would be taxable under section two hereof if received by an individual inhabitant, or on account of the income derived from such property, if such property is held by such corporation as mortgagee or pledgee to secure the payment of bonds, notes or other evidences of indebtedness the interest on which is taxable under section two of this act to such individual inhabitants of the com-

monwealth as receive it, or the principal of which is exempt from taxation under laws other than this act.

The provisions of this act with reference to the taxation of income received by trustees shall, so far as apt, apply to the income received by guardians, conservators, trustees in bankruptcy, receivers and assignees for the benefit of creditors. Income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests shall be taxed as if accumulated for the benefit of inhabitants of this commonwealth.

For the purpose of facilitating the settlement and distribution of estates held by executors, administrators, trustees, guardians, conservators, trustees in bankruptcy, receivers and assignees for the benefit of creditors, the tax commissioner, with the approval of the attorney-general, may on behalf of the commonwealth agree upon the amount of taxes at any time due or to become due from such estates under the provisions of this act, and payment in accordance with such agreement shall be full satisfaction of the taxes to which the agreement relates.

PARTNERSHIPS

SECTION 10. Profits or income, of the classes hereinbefore made taxable, of partnerships of which any member is an inhabitant of this commonwealth and which have a usual place of business in this commonwealth, shall be subject to the taxes assessed by this act. If any of the members of the partnership are not inhabitants of this commonwealth, only so much of the income thereof as is proportionate to the aggregate interest of the partners who are inhabitants of this commonwealth in the profits of the partnership shall be taxed. The tax shall be assessed on such a partnership by the name under which it does business, and the partners shall not be taxed with respect to the income derived by them from such a partnership. A partnership may, except as hereinafter provided, in computing the amount of income with respect to which it is taxable, deduct at the request of any partner the whole or any part of the amount of any exemption to which such partner may be entitled under the provisions of sections four and five of this act; *provided, however*, that no such exemption shall be allowed unless the tax commissioner is satisfied by an affidavit from the partner for whose benefit an exemption is claimed, or otherwise, that such

partner is not allowed, in all partnerships in which he may be a partner, and on account of all income on which he is liable to taxation under this act, more than the total amount of exemptions to which he is entitled under said sections four and five of this act. Each amount so deducted shall be set forth in the return of such partnership, and the partner requesting the same shall be allowed no further exemption on account of the amount so deducted by the partnership.

An inhabitant of this commonwealth who is a member of a partnership having no usual place of business in this commonwealth, who receives income from such partnership derived from such a source that it would be taxable if received directly by such partner, shall as to such income be subject to the taxes imposed by this act.

The provisions of this act in respect to the filing of returns, and the assessment, abatement and collection of taxes, and to notices concerning the same, shall apply to partnerships subject to taxation hereunder.

This section shall not apply to partnerships, associations or trusts, the beneficial interest in which is represented by transferable shares, and nothing in this section shall affect other provisions of this act so far as the same relate to such partnerships, associations or trusts, the beneficial interest in which is represented by transferable shares.

EXEMPTION OF PROPERTY THE INCOME OF WHICH IS TAXED

SECTION 11. After the year nineteen hundred and sixteen, income which is taxable under the provisions of section five of this act, and, except as provided in section twenty-one, property, whether held by an executor, administrator, trustee or otherwise, the income of which, if any, is taxed or would be taxable under the provisions of section two of this act if received by an inhabitant of this commonwealth, shall be exempt from taxation under the provisions of chapter four hundred and ninety of the acts of the year nineteen hundred and nine and acts in amendment thereof and in addition thereto; *provided, however,* that in determining the amount of any tax upon a corporate franchise under the provisions of Part III of said chapter four hundred and ninety, the value of securities the income of which, if any, is taxed or would be taxable under the provi-

sions of this act if owned by a natural person, shall not be included in the deduction, authorized by section forty-one of said part of said chapter, of securities which, if owned by a natural person resident in this commonwealth, would not be liable to taxation, but, for the purposes of section forty-three of said part of said chapter, shall be included among securities which, if owned by a natural person resident in this commonwealth, would be liable to taxation. This act shall not be construed to impose a tax upon any corporation or person in respect to income derived from property exempted from taxation by provisions of law existing prior to the passage of this act, nor shall anything in this act exempt from taxation, under the provisions of said chapter four hundred and ninety, real estate and tangible personal property.

Except as provided in section nine, the income received by corporations shall not be taxable under the provisions of this act. Every corporation liable to taxation under said section nine shall make the returns required by this act, and shall be subject to the penalties therein provided.

RETURNS

SECTION 12. Every individual inhabitant of the commonwealth, including every partnership, association or trust, whose annual income from all sources exceeds two thousand dollars shall annually make a return of his entire income, except income derived (*a*) from real estate, (*b*) from dividends exempt from taxation under section two of this act, (*c*) from interest upon bonds or other obligations of the United States, (*d*) from interest upon such bonds, notes and certificates of indebtedness of the commonwealth and political subdivisions thereof as are exempt from taxation under the provisions of clause fifteen of section five of Part I of chapter four hundred and ninety of the acts of the year nineteen hundred and nine, and acts in amendment thereof and in addition thereto, (*e*) from loans secured exclusively by mortgages of real estate, taxable as real estate, situated within the commonwealth to an amount not exceeding the assessed value of the mortgaged real estate, and (*f*) from wages or salaries received from the United States. Every other individual inhabitant, including every partnership, association or trust, who receives income taxable under section two or subdivision (*a*) or (*c*) of section five of this act shall make an annual return of such taxable income.

Every executor, administrator, trustee, guardian, conservator, trustee in bankruptcy, assignee for the benefit of creditors and receiver, other than a receiver of a corporation organized under the laws of the commonwealth, and every other person receiving income taxable under this act shall make an annual return of his taxable income as herein provided.

The aforesaid return shall be under oath, and shall be filed with the income tax assessor for the district in which the taxpayer resides or has his principal place of business or, at the option of the taxpayer, may be filed with the tax commissioner, and shall be made in such form as the tax commissioner shall from time to time prescribe and shall contain such further information as the tax commissioner may deem pertinent. The return shall be made on or before the first day of March in each year, and shall relate to the income received during the calendar year ending on the preceding thirty-first day of December.

The return required by this section shall be filed by every person who is at any time between the first day of January and the thirtieth day of June in any year an inhabitant of the commonwealth, if such person has in the preceding year received income taxable hereunder: *provided*, that the return relating to income taxable under the provisions of this act, and received by any person who shall have deceased without having made a return relating to such income, shall be made by his executor or administrator; and *provided*, that in the case of any such person who has become an inhabitant of the commonwealth after the first day of February in any year, such return shall be due and shall be filed ninety days after he becomes such an inhabitant. Every person who is an inhabitant of the commonwealth at any time between the first day of January and the thirtieth day of June, both inclusive, in any year, shall be subject to the taxes imposed by this act.

The tax commissioner shall cause to be prepared blanks for the said returns, and shall cause them to be distributed throughout the commonwealth; but no person shall be excused from making the return by failure of the tax commissioner to send or give one of the blanks to him.

The tax commissioner shall give seasonable notice of the requirement of this section, in the manner prescribed by section forty-one of Part I of chapter four hundred and ninety of the acts of the year nineteen hundred and nine,

not later than the fifteenth day of January in each year, in every city and town in the commonwealth.

If the tax commissioner shall, from information derived from the return or otherwise, be of opinion that any person whose income is taxable under the provisions of this act may have failed to file a return, or to include in a return filed, either intentionally or through error, all the sources of his taxable income, he may require from such person a return or a supplementary return under oath, in such form in each individual instance as the commissioner shall prescribe, of all the sources from which the taxpayer received any income, whether or not taxable under the provisions of this act, in the year for which the return was made. If from a supplementary return or otherwise the commissioner finds that any sources of taxable income have been omitted from the original return, he may require the amount of income from each source of taxable income so omitted to be disclosed to him under oath of the person liable for the tax, and added to the original return. Such supplementary return and the correction of the original return shall not relieve the person making the same from any of the penalties to which he may be liable under any provision of this act. The tax commissioner may proceed under the provisions of section fourteen of this act, whether or not he requires a return or a supplementary return under this section.

PENALTIES

Section 13. If any person required to file a return under the provisions of this act fails to file the return within the time prescribed by such provisions, there shall be added to, and become a part of the tax, as an additional tax, the sum of five dollars for every day during which such person is in default; *provided, however*, that the tax commissioner may, in his discretion, abate any such additional tax in whole or in part.

If any person fails to file a return required under the provisions of this act on or before the first day of May of any year, any justice of the supreme judicial court or of the superior court, upon petition of the tax commissioner or of the income tax assessor for the district in which such person is required to file the return, or of any ten taxable inhabitants of the commonwealth, shall issue a writ of mandamus requiring such person to file the return. The order of

notice upon the petition shall be returnable not later than ten days after the filing of the petition. The petition shall be heard and determined on the return day or on such day thereafter as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties. The judgment shall include costs in favor of the prevailing party. All writs and processes may be issued from the clerk's office in any county, and, except as aforesaid, shall be returnable as the court shall order.

If any person files a fraudulent return, or if any person who has failed to file a return, or has filed an incorrect or insufficient return, and has been notified by the tax commissioner of his delinquency, without reasonable excuse fails to file a return within twenty days after receiving such notice, such person shall be punished by a fine of not less than one hundred dollars nor more than ten thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment, and shall forfeit his right to hold public office anywhere within the commonwealth for such period, not exceeding five years, as the court may determine.

In the case of a partnership of which one or more members are inhabitants of this commonwealth and having a usual place of business in this commonwealth, the penalties imposed by this act may be inflicted upon any member of the partnership who is an inhabitant of this commonwealth and who has any active part in the management of the affairs of the partnership, and if there is no such member, upon the person or persons in charge of its affairs within this commonwealth. In the case of a partnership, association or trust, the beneficial interests in which are represented by transferable shares, the penalties imposed by this act for failure to file a return may be inflicted upon the trustees, managers or officers whose duty it was to make the return.

The penalties provided by this section shall apply to individuals and corporations acting in any fiduciary capacity. In the case of a corporation, the penalty may be imposed on the corporation, on the officers whose duty it was to make the return, or on both.

ASSESSMENT AND ADMINISTRATION

SECTION 14. The tax commissioner shall determine from the returns required by this act,

or in any other manner, the income of every person taxable under this act, and shall assess thereon the tax hereby provided; but he shall not determine the income of a person who has filed a return in accordance with section twelve, within the time prescribed by law, to be in excess of that disclosed by such return, without notifying such person and giving him an opportunity to explain the apparent incorrectness of his return.

For the purpose of verifying any return made pursuant to this act the tax commissioner may, within two years after the date when such return was due, if he has reason to believe the return to be fraudulent or incorrect, direct by special authorization a deputy or other agent to verify the return; and for the purpose of such verification the books and papers of the person shall be open to the examining officer, or shall be produced for the purpose upon a summons, which the tax commissioner, or the examining officer, is hereby authorized to issue. The person making the return may be examined by such officer under oath.

If no return, or a fraudulent, incorrect or insufficient return, has been filed by a person required to file a return under the provisions of this act, and the person so in default refuses or neglects, after notice, to file a proper return, the tax commissioner shall determine the income of such person, taxable under this act, according to his best information and belief, and shall assess the same at double the amount so determined. In the case of sickness, absence or other disability of a person liable to the tax, the tax commissioner may allow such further time for filing the return as he may deem necessary.

If the tax commissioner discovers from the verification of a return filed under this act, or otherwise, that the income of any person subject to taxation under this act, or any portion thereof, has not been assessed, he may, at any time within two years after first day of September of the year in which such assessment should have been made, assess the same, first giving notice to the person so to be assessed of his intention, and such person shall thereupon have an opportunity within ten days after such notification to confer with the tax commissioner in person or by counsel or other representative as to the proposed assessment. After the expiration of ten days from such notification the tax commissioner shall assess the income of such person subject to taxation,

or any portion thereof, which he believes has not theretofore been assessed, and he shall thereupon give notice to the person so assessed under the provisions of section fifteen of this act, and the tax shall be payable fourteen days after the date of such notice. The provisions of this act in respect to the abatement and collection of taxes shall apply to a tax so assessed.

The tax commissioner may from time to time make such rules and regulations, not inconsistent with the provisions of this act, as he may deem necessary for the purpose of carrying out its provisions.

SECTION 15. The tax commissioner shall, on or before the first day of September in each year, give notice to every person taxable under the provisions of this act of the amount of the tax payable by him, and of the date upon which the tax is due and payable, which date shall be the fifteenth day of October. The notice shall be a written or printed notice, and shall be mailed, postage prepaid, addressed to the person assessed at his place of residence or business, or at the address given in his return, or otherwise delivered at such place of residence or business or at such address. All taxes assessed hereunder may be paid at the office of the tax commissioner in Boston or at the office of the income tax assessor for the district in which the taxpayer resides or has his principal place of business, at the option of the taxpayer, and the notice shall state the places at which the tax may be paid.

Failure to receive the notice provided for by this section shall not affect the validity of the tax.

SECTION 16. Returns shall be open to the inspection of the tax commissioner and of his deputies, assistants and clerks, when acting under his authority, and of the income tax assessors and of their deputies, assistants and clerks, when acting under their authority. The disclosure by the tax commisioner, or by any deputy, assistant, clerk or assessor, or other employee of the commonwealth, or of any city or town therein, to any person of any information whatever contained in or set forth by any such return, other than the name and address of the person filing it, except in proceedings to collect the tax or by proper judicial order, shall be punishable by a fine not exceeding one thousand dollars, or by imprisonment for a period not

exceeding six months, or by both such fine and imprisonment, and by disqualification from holding office for such period, not exceeding three years, as the court may determine. Said returns shall be preserved for two years, and thereafter until the tax commissioner orders them to be destroyed.

Lists or indexes of persons in the district who have filed returns shall be kept in the office of each income tax assessor, and shall be open to public inspection. The name of each person filing a return shall be placed on such list or index immediately on the filing of the return.

SECTION 17. For the purpose of carrying out the provisions of this act, the tax commissioner shall divide the commonwealth into income tax districts, and he may from time to time change the limits of the districts. He shall, with the advice and consent of the governor and council, appoint, and may with their consent remove, an income tax assessor for each district, to assist him in such manner and under such rules and regulations as he may from time to time prescribe in the performance of his duties hereunder.

An income tax assessor need not be a resident of the district in which he is to serve: *provided*, that, so far as practicable preference shall be given to residents of the respective districts. The commissioner may transfer any income tax assessor from one district to another, and may assign any such assessor to temporary or extraordinary service in any district.

The tax commissioner may also appoint such deputy income tax assessors, who may be members of boards of assessors of cities or towns, and such clerical and other assistants in the several districts, as may, in the opinion of the governor and council, be necessary for the proper performance of his duties.

The salaries of the income tax assessors and their deputies shall be fixed by the tax commissioner with the approval of the governor and council, and the income tax assessors, their deputies, assistants and clerks, shall be allowed such reasonable and necessary traveling and other expenses incurred in the performance of their duties as may be approved by the tax commissioner and by the governor and council.

All taxes received by the income tax assessors shall be accounted for and turned over to the tax commissioner as often as once in each week, and the commissioner shall transmit to the treasurer and receiver-general as often as once

in each month all taxes received by him under the provisions of this act.

The tax commissioner shall require the income tax assessors to give bonds in such form, with such sureties and in such amounts as may be approved by the governor and council, and all premiums upon such bonds shall be paid by the tax commissioner out of moneys appropriated for the purposes of this act.

The tax commissioner may also, with the advice and consent of the governor and council, appoint, and with their consent remove, a deputy to be known as the income tax deputy, who shall receive such salary as the governor and council may approve, and who, under the direction of the tax commissioner, shall have supervision and control of the assessment and collection of the income taxes provided for by this act; and the tax commissioner shall appoint such additional clerical and other assistants to the income tax deputy and income tax assessors as the governor and council may approve.

The aforesaid income tax deputy, income tax assessors and deputy assessors shall have such duties and powers consistent with the provisions of this act as the tax commissioner shall from time to time prescribe. Their appointment shall be governed by the provisions of law relative to the appointment of the present deputies and assistants of the tax commissioner, and supervisors of assesors.

SECTION 18. If a tax assessed under the provisions of this act is not paid at the time when it is due, interest at the rate of six per cent per annum from that time shall be added to and become part of the tax. The tax commissioner, and the income tax assessors in their respective districts, shall have all the remedies for the collection of taxes assessed under the provisions of this act that are provided by chapter four hundred and ninety of the acts of the year nineteen hundred and nine, and acts in amendment thereof and in addition thereto, for the collection of taxes on personal estate by collectors of taxes of cities and towns, and shall be allowed charges and fees as therein provided. Any action of contract brought to recover any such tax shall be brought in the name of the commonwealth.

ABATEMENTS

SECTION 19. Any person aggrieved by the assessment of a tax under the provisions of this

act may apply to the tax commissioner for an abatement thereof at any time within three months after the date of the notice of the assessment; and if, after a hearing, the tax commissioner is satisfied that the tax is excessive in amount or that the person assessed is not subject to the tax, he shall abate the tax in whole or in part accordingly; and if the tax has been paid, the treasurer and receiver-general shall repay to the person assessed the amount of such abatement, with interest thereon at the rate of six per cent per annum from the time when it was paid: *provided, however*, that no tax assessed upon any person liable to taxation under this act shall be abated in any event unless the person assessed shall have filed, at or before the time of bringing his petition for abatement, a return as required by section twelve of this act; and if he failed without good cause to file his return within the time prescribed by law, or filed a fraudulent return, or, having filed an incorrect or insufficient return, has failed, after notice, to file a proper return, the tax commissioner shall not abate the tax below double the amount for which the person assessed was properly taxable under the provisions of this act. The tax commissioner shall notify the petitioner by registered letter of his decision upon the petition.

Any person aggrieved by the refusal of the tax commissioner to abate, in whole or in part, under the provisions of this section, a tax assessed under the provisions of this act, may, within thirty days after receiving notice of the decision of the tax commissioner, appeal therefrom by filing a complaint with the clerk of the board of appeal provided for by section sixty-eight of Part III of chapter four hundred and ninety of the acts of the year nineteen hundred and nine. If, upon a hearing, the board of appeal finds that the person making the appeal is entitled to any abatement from the tax assessed upon him, it shall make such abatement as it sees fit.

The decision of the board of appeal shall be final and conclusive, and shall be communicated in writing to the petitioner and the tax commissioner within five days after the decision of the board.

If the tax appealed from has been paid, the treasurer and receiver-general shall repay to the petitioner the amount of any abatement and interest from the time of payment, upon presentation to him by the petitioner of the notice of the decision of the board.

SECTION 20. Any person aggrieved by the refusal of the tax commissioner to abate in whole or in part, under the provisions of the preceding section, a tax assessed under the provisions of this act may, instead of pursuing the remedy provided in the preceding section, appeal from such refusal by filing a complaint against the tax commissioner in the superior court for the county in which such person resides or has his principal place of business, within thirty days after the notice by the tax commissioner of his decision in accordance with the preceding section. An order of notice shall be issued by said court and served upon the tax commissioner within such time as the court shall direct, and the subsequent proceedings shall be conducted in accordance with the provisions of sections seventy-seven to eighty, inclusive, of Part I of chapter four hundred and ninety of the acts of the year nineteen hundred and nine, and acts in amendment thereof and in addition thereto; but if the complainant was subject to taxation under this act and did not file his return within the time prescribed by law he shall not be entitled to have any part of his tax abated by the court, unless the court finds that he had good cause for his delay, or the tax commissioner had previously so found. If an abatement is granted, the amount thereof shall be repaid to the complainant by the treasurer and receiver-general, with interest at the rate of six per cent per annum from the time when the tax was paid, and costs.

The remedies provided by sections nineteen and twenty hereof shall be exclusive, whether or not the tax is wholly illegal.

ADDITIONAL LOCAL TAXES

SECTION 21. All property owned by a resident of this commonwealth on the first day of April in any year, which during the preceding calendar year had produced for such owner any income taxable under this act, shall, despite anything in this act, be subject to taxation to such owner in accordance with the provisions of chapter four hundred and ninety of the acts of the year nineteen hundred and nine, and acts in amendment thereof and in addition thereto, if such owner does not make to the tax commissioner a full return of his taxable income from such property on or before the first day of September of the year in which a return of income is required by section twelve of this act, and provided the tax so assessed is greater than

the amount of the tax properly payable under sections two and fourteen of this act. Property taxable in any year under this section shall be assessed in that year between the second day of September and the tenth day of December, both inclusive. The amount of taxes assessed by the local assessors upon such property in such city or town in any year, less the amount assessed and collected by the tax commissioner as hereinafter provided, shall be entered on the tax list of the collector of such city or town, and he shall collect and pay over the same to the city or town.

Any taxpayer aggrieved by the assessment of a tax under the provisions of this section may appeal to the tax commissioner within thirty days after the receipt of the tax bill therefor, or other actual notice of the assessment. In case of an adverse determination by the tax commissioner, the taxpayer may appeal to the board of appeal as provided in section nineteen, or to the superior court as provided in section twenty; and if the taxpayer shall establish that the income of the property was duly returned or that it was not taxable or that there was reasonable excuse for not making the return, the tax shall be abated, and if it has previously been paid, the amount abated shall be repaid by the city or town to the taxpayer, with interest from the time of such payment. At any time prior to the collection by the city or town of the tax provided for by this section, the tax commissioner may assess and collect the tax provided for by the act, on the income of the property subject to the limitation of time provided by section fourteen. Upon the collection of the tax, the tax commissioner shall at once notify the tax collector of the city or town in which the taxpayer resides, and the tax collected by him shall be deducted from the tax assessed in that city or town; and if the tax assessed in such city or town has been collected, the amount so deducted shall be repaid by the city or town to the taxpayer. If a tax collected by a city or town under the provisions of this section is afterward abated, the amount of the abatement, together with the amount of any interest paid by the taxpayer on that amount, shall be paid by the city or town to the taxpayer.

Upon discovery of property the income of which for the preceding calendar year, taxable under this act, has not been returned on or before the first day of September of the year in which the return is required, the tax commis-

sioner shall forthwith notify the assessors of the city or town in which the property is taxable, unless there is within his knowledge a reasonable excuse for the failure of the taxpayer to file the return. Upon making any assessment under the provisions of this section, the assessors shall forthwith notify the tax commissioner.

SECTION 22. Any taxpayer who in the year nineteen hundred and seventeen fails to bring in a list of taxable personal estate, as provided in sections forty-one to forty-nine inclusive of Part I of chapter four hundred and ninety of the acts of the year nineteen hundred and nine, and acts in amendment thereof and in addition thereto, shall be assessed in that year for an amount of personal estate not less than that for which he was assessed and taxed in the year nineteen hundred and sixteen. The tax commissioner shall have authority to assess any taxpayer in any city or town for any amount of tax for which said taxpayer may be liable under the provisions of this section; and any assessor who shall violate the provisions of this section shall be liable to the penalties imposed by section thirty-nine of Part I of chapter four hundred and ninety of the acts of the year nineteen hundred and nine, and acts in amendment thereof and in addition thereto.

DISTRIBUTION

SECTION 23. On or before the fifteenth day of November in the year nineteen hundred and seventeen the treasurer and receiver-general shall pay to each city or town an amount equal to the difference between the amount of the tax levied upon personal property in such city or town in the year nineteen hundred and fifteen and the amount, computed by the tax commissioner, that would be produced by a tax upon the personal property actually assessed in such city or town for the year nineteen hundred and seventeen at the same rate of taxation as prevailed therein in the year nineteen hundred and fifteen. If the amount of taxes collected from incomes shall exceed the sum necessary to make such payments, the balance shall be distributed among the several cities and towns in proportion to the amount of the state tax imposed upon each of them in the year nineteen hundred and seventeen; *provided*, that of the aforesaid excess the commonwealth shall retain a sum sufficient to reimburse it for the expenses incurred under this act during the year nineteen

hundred and seventeen, and abated taxes repaid hereunder during said year. In years subsequent to nineteen hundred and seventeen, the taxes collected under this act shall be distributed as the general court may determine.

SECTION 24. On or before the first day of August in each year the tax commissioner shall, upon the basis of the information then in his possession, notify the assessors of each city and town of the amount of income tax such city or town is to receive under this act. The said assessors, in determining the rate of taxation to be levied upon taxable property for the year, shall include in the estimated receipts lawfully applicable to the payment of expenditures the aforesaid amount of income tax.

INFORMATION AT THE SOURCE

SECTION 25. Every individual, partnership, association, trust or corporation, being an inhabitant of the commonwealth or having a place of business therein, shall file annually with the tax commissioner a return in such form as the tax commissioner shall from time to time prescribe, giving the names and addresses of all regular employees residing in this commonwealth to whom the said individual, partnership, association, trust or corporation has paid wages, salary or other compensation in excess of the sum of eighteen hundred dollars during the previous calendar year.

Every corporation and every partnership, association or trust the beneficial interest in which is represented by transferable shares, doing business in the commonwealth, shall, unless the dividends paid upon its shares are exempt from taxation under section two of this act, on or before the first day of March in the year nineteen hundred and seventeen and in each year thereafter, file with the tax commissioner a list of the names and addresses of its shareholders as of record on the thirty-first day of December of the previous year, or, in its discretion, of such shareholders as are residents of the commonwealth; *provided, however,* that the tax commissioner in his discretion may accept in lieu of the above list from any corporation, partnership, association or trust required to make a return hereunder a list of its shareholders as of record on any other date satisfactory to him. Every such corporation, partnership, association or trust shall also report to the tax commissioner on or before the

first day of March in each year the names and addresses of residents of the commonwealth to whom it has paid interest during the preceding calendar year upon its bonds, notes, or other evidences of indebtedness, and to whom it has paid any annuity or annuities, except, however, interest coupons payable to bearer, and income exempt from taxation under this act. In any individual case, any such corporation, partnership, association or trust shall, upon request of the tax commissioner, state the respective amounts of dividends, interest and annuities so paid by it to any person during any calendar year.

The returns provided by this section shall be made on or before the first day of March in each year; but the tax commissioner may, in his discretion, authorize such returns to be made at any other date and in connection with any other reports or returns that the said individuals, partnerships, associations, trusts and corporations may be required to file with him.

Any individual, partnership, association, trust or corporation that without reasonable excuse fails to comply with the provisions of this section shall be punished by a fine of not less than twenty-five nor more than five hundred dollars for each offence.

SECTION 26. The treasurer of every city, town and county, and the auditor of the commonwealth shall, in each year not later than the tenth day of April, in the form prescribed by the tax commissioner, furnish said commissioner with the names and addresses of all employees of said cities, towns, counties and of the commonwealth respectively who received during the preceding calendar year as salary, wages, or otherwise amounts exceeding eighteen hundred dollars in each case, together with the amount received by each.

GENERAL PROVISIONS

SECTION 27. If any part, subdivision or section of this act shall be declared unconstitutional, the validity of the remaining parts of this act shall not be affected thereby.

SECTION 28. No caption to any section or set of sections shall in any way control or affect the interpretation of this act or of any part thereof.

SECTION 29. After the passage of this act or the fifteenth day of May in the year nineteen

hundred and sixteen, whichever last occurs, no bonds shall be registered under chapter seven hundred and sixty-one of the acts of the year nineteen hundred and fourteen, and acts in amendment thereof and in addition thereto. The tax imposed by this act shall not be assessed upon the income from any bond registered under any of said acts until the term for which such bond was exempted by registration has expired.

SECTION 30. This act shall take effect upon its passage.

Personal Trusts

THE reasons that prompt a person to engage the services of specialists in other lines should impel him to exercise the same care in selecting those who are to administer his estate. The

OLD COLONY TRUST COMPANY

offers you the services of an efficient trust department, experienced specialists in all matters relating to trusts, specialists in investing trust funds, and the security of a strong and responsible company.

Capital.	$6,000,000
Surplus.	6,000,000
Stockholders' Liability	6,000,000

Under the new income tax law all trustees and executors are required to make proper sworn returns of their income taxable under the act. At the same time the tax is at a reasonable rate, so that trustees can pay the tax and still obtain a satisfactory net return for their beneficiaries from conservative taxable securities. This change in the law revolutionizes the investment of trust estates.

The officers of the Old Colony Trust Company are always glad to explain the many advantages that can be obtained through the employment of this company in any of its fiduciary capacities.

Old Colony Trust Company

Trust Department

17 COURT STREET, BOSTON

Your Estate

YOUR estate is now receiving the benefit of your management, care, and thought, and you should determine who is best equipped to manage it after your death. THE CONTROLLING FACTORS to be considered IN CHOOSING AN EXECUTOR AND TRUSTEE ARE HIS FINANCIAL STANDING, EXPERIENCE, and JUDGMENT. In appointing the OLD COLONY TRUST COMPANY Executor of your will you secure

THE SERVICES OF A STRONG FINANCIAL INSTITUTION,

THE EXPERIENCED JUDGMENT OF AN ORGANIZATION WHOSE BUSINESS IS SETTLING ESTATES,

THE CONFIDENCE THAT YOUR ESTATE WILL BE FAITHFULLY ADMINISTERED, and

THE SYSTEMATIC, EFFICIENT MANAGEMENT OF SPECIALISTS.

The settling of estates is the work of the specialist, and you must choose the executor wisely in order to secure the greatest benefit for those who are to enjoy your property and for whom it must be conserved.

TODAY YOU WOULD NOT CONSIDER EMPLOYING ANYONE OTHER THAN A SPECIALIST TO MANAGE YOUR BUSINESS AFFAIRS.

YOU SHOULD SECURE A SPECIALIST WHEN HE IS MOST NEEDED, THAT IS, IN THE SETTLEMENT OF YOUR ESTATE.

NAME THE

Old Colony Trust Company

EXECUTOR UNDER YOUR WILL

To Trustees and Other Investors

THE new Income Tax Law has been laid before you in the preceding pages. *Income You are Now Receiving* from taxable securities is subject to this tax.

In place of low yield tax-exempt bonds, you may now buy well-secured taxable municipal, railroad, and other corporation bonds which will net you, tax paid, from 4 per cent to 5 per cent.

Instead of being limited practically to the purchase of non-taxable stocks in your desire for a fair yield, you may now obtain a reasonable return with the security afforded by high-grade mortgage bonds.

It will be to your advantage to consult our Bond Department if you contemplate changes in or additions to your investments at the present time.

A copy of our investment circular will be sent on request.

Bond Department

Old Colony Trust Company

Directors

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FRANCIS R. HART, Vice-Chairman.

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